

COUNTY OF KAUAI
Approved as Amended
OPEN SESSION MEETING MINUTES

Board/Commission	Kaua'i Police Commission	Meeting Date	September 14, 2018
Location	Mo'ikeha Building – Meeting Room 2A/B	Start of Meeting: 9:00 a.m.	End of Meeting: 11:32 a.m.
Present	Chair Gerald Bahouth; Vice Chair Mary K. Hertog; Commissioners: Catherine Adams, Kevin Mince and Roy Morita Also present: Boards & Commissions Office Staff: Support Clerk Mercedes Omo, Administrator Nicholas R. Courson; Office of the County Attorney: County Attorney Mauna Kea Trask; Police Department: Acting Chief of Police Michael Contrades, Acting Deputy Chief of Police Robert Gausepohl; Captain Paul Applegate and numerous ranking officers in the Kaua'i Police Department. Special Guest: Mayor Bernard Carvalho Jr.		
Excused	Commissioner Leina`ala Jardin		
Absent			

SUBJECT	DISCUSSION	ACTION
Call To Order		Chair Bahouth called the meeting to order at 9:00 a.m. with five commissioners present to conduct business.
Chair Comments/ Announcements	None.	
Mayoral Proclamation	Mayor Bernard Carvalho Jr. presented Captain Paul Applegate with a proclamation for his leadership as the Incident Commander during the unprecedented flood in April and most recently, the preparation for Hurricane Lane and Tropical Storm Olivia. Through Captain Applegate's guidance, members of his team were able to handle the incident in an efficient and effective manner.	
Recap of the 2018 HSLEOA Conference	Vice Chair Hertog stated that the conference gave her the opportunity to learn about other aspects in law enforcement that she knew nothing about and that crime does pay if you know how to launder money.	

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	<p>Ms. Adams shared that in addition to the different presentations, the conference gave her the opportunity to network with other law enforcement agencies like NCIS, DEA and Homeland Security officials. One particular discussion she remembers having was with a couple of DEA agents who spoke highly of KPD in that whenever they come to Kaua'i they know things are going to go well because of the meticulous work KPD does beforehand.</p> <p>Mr. Morita shared that all of the presentations were very informative and he was thankful for the opportunity to able to network with the different law enforcement agencies.</p> <p>Acting Chief Michael Contrades thanked the Commissioners who attended the conference for their support of HSLEOA Officer of the Year Sergeant Daniel Oliveria. As a member of KPD's Investigative Unit, Sergeant Oliveria has worked diligently to establish and maintain the Department's relationship with their federal counterparts on the mainland.</p>	
Approval of Minutes	<p><u>Regular Open Session Minutes of July 27, 2018.</u></p> <p>Chair Bahouth called for a motion to approve or amend the meeting minutes of July 27, 2018.</p>	<p>Vice Chair Hertog moved to approve the meeting minutes as circulated. Ms. Adams seconded the motion. The motion carried 5:0.</p>
Chief's Monthly Reports, Announcements and Pertinent Updates	<p>Acting Chief Contrades made the following announcements:</p> <ul style="list-style-type: none"> • The Department is sending four personnel in the Department to Hawai'i Island next week to assist the Hawai'i Police Department with the orientation of their Spillman Records Management System. • 	

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	<ul style="list-style-type: none">• The Department's unmanned aircraft system, aka "Drone Program," is moving forward. The Department has four FAA/DOT licensed remote pilots who are undergoing continuous training to build up their flight hours. Recently, the remote drone pilots were deployed to take part in a major incident in Kekaha to provide reconnaissance for the officers on the ground.• Special recognition went to the Department's Vice Officers, Patrolmen and Criminal Intelligence Unit for the apprehension of First Hawaiian Bank robber Wally Mills. Mr. Mills was sentenced to 15 years in federal prison.• As of July 1, 2018, state law requires all police departments to have an online Sexual Assault Tracking System in place by the year 2020 so sex assault victims can track the progress of their sexual assault kits and the progress of their sexual assault case. KPD is scheduled to be online on October 22, 2018, and will be the first department in the State to have their system in place.• Captain Mark Ozaki and Acting Lieutenant Darla Nonaka did a brief presentation on the Department's recruitment efforts to fill the 911 Dispatcher vacancies.• The Department's online reporting system is procured and all the Department needs to do at this point is figure out the type of cases they are going to allow the community to have access to. <p>With no further announcements, Chair Bahouth opened the floor for questions.</p> <p>Mr. Mince asked a variety of questions relating to the Department's recruitment efforts on the premise that for years the Department has not made any progress in filling the police service officer vacancies.</p>	

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	<p>County Attorney Mauna Kea Trask stated that per, the Charter, all administrative affairs of the Department are to be referred to the Chief, which in this case, is Acting Chief Contrades. He made it clear that the Commission does not have administrative authority over the Department and that he's aware of the type of work Mr. Mince does outside of his county-associated duties as a Police Commissioner which is to educate people so they can pass the written police exam. He also clarified for the record that, he doesn't know where the discussion was leading to and would caution everyone about using their official position for financial gain because it's an ethical violation.</p> <p>Mr. Mince clarified that he has no financial interest whatsoever and that in the past, he even offered to teach the course for free, but when he presented the offer to KPD they turned the offer down because it discriminates people from the mainland from having the opportunity to take the course.</p> <p>County Attorney Trask stated that for Mr. Mince's own protection, he would like the record to reflect that Mr. Mince does not have any financial interests in any training organization nor does, he receive any consideration for the work he does outside of the County. Mr. Mince reiterated that he does not do any work for any outside organization.</p> <p>County Attorney Trask also noted for the record that Mr. Mince will be protected from any ethical charges that would otherwise be filed against him. He reminded everyone about the separation of powers between the Commission and the Police Department.</p> <p>Mr. Mince stated he would like to defer his request to Chair Bahouth on whether or not he can ask questions on recruitment. Chair Bahouth stated that if Mr. Mince wants to ask questions specifically on the Department's seven-point program, he would have no issues because his questions relate to Chief Contrades' PowerPoint that he presented back in July.</p>	

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	<p>Boards and Commissions’ Administrator Nicholas Courson stated that the Sunshine Law is not always black and white, and if the Chief’s PowerPoint presentation is going to warrant more discussion, then Commissioners should ask the Chair to place the item on the Commission’s next meeting agenda. He added that what would normally be a general discussion on the Department’s recruitment efforts is turning into a long-drawn-out discussion.</p> <p>Vice Chair Hertog stated that the Commission needs to move on, so to Mr. Mince’s point, is the Department doing anything over and above to help a person get up to standards, as well as give them pointers on how to pass the written test if they failed the first time?</p> <p>Mr. Mince noted that his questions go far beyond that.</p> <p>Acting Chief Contrades stated that to date the Department has hired over 80 officers over the last 6 years, which far exceeds the previous numbers. He pointed out that the recruitment problem is a nationwide problem and not just on Kaua‘i. And as for Mr. Mince’s offer to provide free classes it’s the first time, he’s hearing about it.</p> <p>With no further discussion, Chair Bahouth moved on to item KPC 2018-06.</p>	
<p>Business KPC 2018-06</p>	<p><u>Discussion and possible decision-making on revising the Kaua‘i Police Commission Rules on Administrative Practice and Procedure to reflect the Intermediate Court of Appeals decision of June 2016 regarding the discipline of the chief of police, commission oversight and supervision of the chief. On-going</u></p> <p>This item was deferred pending County Attorney opinion on whether or not the Charter should be amended in order to accommodate the ICA’s ruling.</p>	
<p>KPC 2018-14</p>	<p><u>Report from the Permitted Interaction Group on its recommendations on the hiring of a new Police Chief.</u></p> <p>County Attorney Trask stated that after further consultation with the Office of Boards and Commissions, including review of relevant OIP opinions, specifically OIP Opinion No.</p>	

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	06-02 dated April 20, 2016, he requests that the Commission defer the matter and take it in Executive Session under item ES 2018-025, then return to Open Session based upon the discussion in Executive Session.	
Announcements	<ul style="list-style-type: none"> Next regular monthly meeting - Friday, September 28, 2018, 9:00 a.m. at the Mo`ikeha Building, Meeting Room 2A/2B. Executive Session to follow. 	
Executive Session ES KPC 2018-001	<p>Pursuant to Hawai‘i Revised Statutes §92-4, §92-5 (a) (2) and (4), the purpose of this Executive Session is for the Commission to review and discuss charges brought against an officer or employee of the County, where consideration of matters affecting privacy will be involved, provided that if the individual concerned requests an open meeting, an open meeting shall be held; and to consult with its attorney on issues pertaining to the Commission’s and the County’s powers, duties, privileges, immunities, and/or liabilities as they may relate to the following agenda items:</p> <p>Monthly update by Office of Professional Standards Lieutenant Scott Williamson on the status of the Department’s disposition on all formal notarized complaints that were filed with the Kaua‘i Police Department, including complaints that were filed with the Police Commission and referred to the Office of the Chief for further review.</p> <p><u>Final Complaint Dispositions</u></p> <p>(c) Communication dated August 3, 2018, from Acting Chief of Police Robert Gausepohl to Chair Bahouth and members of the Kaua‘i Police Commission, regarding the Department’s response to Attorney Daniel Hempey as it relates to complaint no. KPC 2018-009.</p> <p>(d) Communication dated August 6, 2018, from Deputy Chief of Police Robert Gausepohl to Chair Bahouth and members of the Kaua‘i Police Commission, regarding the Department’s final disposition for notarized complaint no. KPC 2018-007.</p>	At 9:45 a.m. Vice Chair Hertog read the Hawai‘i Revised Statutes to bring the meeting into Executive Session.

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	(e) Communication dated August 7, 2018, from Deputy Chief of Police Robert Gausepohl to Chair Bahouth and members of the Kaua‘i Police Commission, regarding the Department’s final disposition for notarized complaint no. KPC 2018-005.	
ES KPC 2018-002	Monthly update by Acting Chief Michael Contrades or his designated representative on any significant adverse incidents/events involving personnel in the Kaua‘i Police Department that could potentially impact the County, the Police Commission and the Kaua‘i Police Department.	
ES KPC 2018-025	Pursuant to Hawai‘i Revised Statutes §92-4 and §92-5 (a) and (2) and (4), the purpose of this Executive Session is for the Commission to discuss the hiring of a new Police Chief and other related items, and to consult with its attorney on questions and issues pertaining to the Commission’s powers, duties, privileges, immunities and liabilities as they may relate to this agenda item.	
ES KPC 2018-029	<p>Pursuant to Hawai‘i Revised Statutes §92-4, §92-5 (a) (2) and (4), the purpose of this Executive Session is for the Commission to review and discuss charges brought against officers in the County, where consideration of matters affecting privacy will be involved, provided that if the individual concerned requests an open meeting, an open meeting shall be held; and to consult with its attorney on issues pertaining to the Commission’s and the County’s powers, duties, privileges, immunities, and/or liabilities as they may relate to the following agenda items:</p> <p>(a) Communication from dated July 26, 2018, from Mayor Bernard P. Carvalho Jr. to Chair Gerald Bahouth and members of the Kaua‘i Police Commission, regarding a complaint filed by an officer of the County alleging retaliation by senior members in the Kaua‘i Police Department.</p>	

SUBJECT	DISCUSSION	ACTION
ES KPC 2018-030	Pursuant to Hawai'i Revised Statutes §92-4, §92-5 (a) (4), §92-9 (a) (1-4) and (b), the purpose of this Executive Session is for the Commission to approve the Executive Session meeting minutes of July 27, 2018, to consult with its attorney on issues pertaining to the Commission's powers, duties, privileges, immunities, and/or liabilities as they may relate to this agenda item.	
ES KPC 2018-031	Pursuant to Hawai'i Revised Statutes §92-4, §92-5 (a) (4), the purpose of this Executive Session is for the Commission to consult with its attorney on issues pertaining to the Commission's powers, duties, privilege immunities, and/or liabilities as they may relate to a discussion and possible decision-making regarding administrative rules.	Ms. Adams moved to enter into Executive Session. Vice Chair Hertog seconded the motion. The motion carried 5:0. At 9:50 a.m., the Commissioners entered into Executive Session.
Return to Open Session to Ratify the actions taken in Executive Session	At 11:32 a.m., the Commissioners reconvened in Open Session. Chair Bahouth called for a motion to ratify the actions taken in Executive Session.	Ms. Adams moved to ratify the actions taken in Executive Session. Mr. Morita seconded the motion. The motion carried 5:0. <u>ES KPC 2018-001:</u> <u>Motion No. 1</u> Motion carried 5:0 to receive the Monthly Reports. <u>Motion No. 2</u> Motion carried 5:0 to receive the three communications dated August 3, 2018, August 6, 2018, and August 7, 2018. <u>ES KPC 2018-002:</u> Verbal update was provided by

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		<p>Acting Chief Michael Contrades.</p> <p><u>ES KPC 2018-025:</u> Motion carried 5:0 to send a letter to SHOPO to thank them for their input and under careful consideration, the Commission have decided per the Charter not to allow SHOPO to take part in the hiring process.</p> <p><u>ES KPC 2018-029:</u> <u>Motion No.1</u> Motion carried 5:0 to refer the notarized complaint to the Department of Human Resources for investigation.</p> <p><u>Motion No. 2</u> Motion carried 5:0 to receive the notarized complaint for the record.</p> <p><u>ES KPC 2018-030:</u> Motion carried 5:0 to approve the Executive Session meeting minutes of July 27, 2018, as circulated.</p>

SUBJECT	DISCUSSION	ACTION
		<u>ES KPC 2018-031:</u> On-going.
Adjournment		Ms. Adams moved to adjourn the meeting. Vice Chair Hertog seconded the motion. The motion carried 5:0. At 11:32 a.m., the meeting adjourned.

Submitted by: _____
Mercedes Omo, Staff Support Clerk

Reviewed and Approved by: _____
Gerald Bahouth, Chair

() Approved as circulated on

(x) Approved as amended. See minutes of **September 28, 2018** meeting.